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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,207	02/10/2005	Eric Ezan	265434US0PCT	9997
22850	7590	08/31/2007		
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER HAQ, SHAFIQUK	
			ART UNIT 1641	PAPER NUMBER
			NOTIFICATION DATE 08/31/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/524,207

Applicant(s)

EZAN ET AL.

Examiner

Shafiqul Haq

Art Unit

1641

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 10 April 2007. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

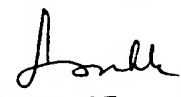
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): 35 USC 112 first and second and 35 USC 102..
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 1 and 3-14.
Claim(s) objected to: _____.
Claim(s) rejected: 15 and 17-26.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


LONG V. LE 08/28/07
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Continuation of 11. does NOT place the application in condition for allowance because: : Applicant's argument's filed 3/12/07 have been fully considered, and are persuasive to overcome the rejections under 35 USC 112 Second and First paragraph but the amendments and arguments are not persuasive to overcome 35 USC 103 rejections over Descalzo et al., Salari et al. and Tallent et al. (paragraphs 14 and 15 of 10/10/06 office action). Claim 15 is a kit claim comprising two components: 1) a silylated organic compound and 2) a detection means and the two components are also obvious in the kit composition of cited prior arts. Applicant is reminded that a recitation of the intended use of the claimed invention, i.e. "for detecting and measuring the concentration of fluoride(F) of hydrogen fluoride (HF) in a sample", must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. Also, the phrase "detecting -- the appearance of desilylated organic compound or disappearance of the silylated organic compound" is considered as intended use of the detection device/component of the kit composition. Descalzo et al disclose a method for determination of fluoride in a sample using Silylated organic compounds. Salari discloses silylated organic compounds (e.g. trimethylsilyl ester, tert-butylmethylsilyl esters) (see title and page 221) and detection by gas chromatography and mass spectrometry (see figs. 2-7). Tallent et al. also disclose silylated organic compounds (e.g. silylated BSA) (page 147, left column under results and discussion) and detection by gas chromatography and mass spectrometry (see Fig.1). Note that the detection component i.e. gas chromatography and mass spectrometry are capable of detection of both silylated and desilylated organic compounds. Since, packaging of components in kit form is a well-known obvious expedient for ease and convenience in assay performance and once a method has been established, one skilled in the art would clearly consider compiling components in a kit format and change/modify different components of the kit to best suit the assay and therefore the two components i.e. silylated organic compound and a means for detection are obvious in the kit composition. .